



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/845,595	04/30/2001	Jody Francis Powlette	PROP 98-001C	3840
23694	7590	01/05/2005	EXAMINER	
J. NICHOLAS GROSS, ATTORNEY AT LAW 726 DUBOCE AVE. SAN FRANCISCO, CA 94117			SAX, STEVEN PAUL	
			ART UNIT	PAPER NUMBER
			2174	

DATE MAILED: 01/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/845,595

Applicant(s)

POWLETTE

Examiner

Steven P Sax

Art Unit

2174

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 August 2004.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 69-93 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) 75-82 and 89-93 is/are allowed.
6) ☒ Claim(s) 69-74 and 83-88 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This application has been examined. The amendment filed 8/9/04 has been entered.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 69-74 and 83-88 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ludwig et al (6343314) and Andersen (6363398).

4. Regarding claim 69, Ludwig et al show a system running a program which: presents chart data in graphical form within a window on a display for viewing by a user of the system (Figure 2B, column 6 lines 30-60), permits a user to add visual annotations to the chart data including descriptive labels (Figure 2B, column 26 lines 30-50, claim merely recites "at least ... and/or descriptive labels," so only this need be shown to anticipate this feature), permits the user to capture the annotations in permanent form (column 26 lines 50-67, column 27 lines 1-30). The program operates in a browser program (Figures 2A, 8A for example). Ludwig et al do not specifically mention that the browser interacts using hypertext protocol with world wide web

Art Unit: 2174

accessible internet servers, but do mention using Wide Area Networks (WAN) for access to a wide variety of data servers. Furthermore, Andersen shows using the world wide web accessible internet servers, interacting with a browser via hypertext protocol, for access to a wide variety of data servers (Figure 3, column 4 lines 30-50). It would have been obvious to a person with ordinary skill in the art to use world wide web accessible internet servers, interacting with a browser via hypertext protocol, in Ludwig et al, for convenient access to a wide variety of data servers.

9. Regarding claim 70, Ludwig et al show historical price information related to a commodity (such as real estate) (Figure 37, column 38 lines 44-50).

10. Regarding claim 71, Ludwig et al do show overlaying information onto related data types (column 40 lines 20-40, which may include more than one commodity). Thus price information of one commodity is overlaid onto price information of another in some manner.

11. Regarding claim 72, Ludwig et al do not specifically mention that the program is implemented using java applets, but do mention convenient methods to retrieve and present data from a server. Furthermore, Andersen shows implementing java applets to retrieve and present data from a server (Figure 3, column 3 lines 50-67). It would have been obvious to a person with ordinary skill in the art to implement java applets in Ludwig et al, for convenient retrieval and presentation of data from a server.

12. Regarding claim 73, Ludwig et al show that trend lines may be drawn by a user to connect data items (Figures 2B, 36, 37, for example).

13. Regarding claim 74, the visual annotations are captured in a form suitable for printing or storing as a data file even if the program does not have access to data file resources in the system (column 36 lines 47-67).

14. Claims 83-88 show the same features as claims 69-74 respectively, and are rejected for the same reasons as those claims respectively.

15. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

16. Claims 69-74 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. These claims are directed to a "program" with "routines".

This may be remedied for example by directing the claims to a "tangible recording medium with program instructions embodied thereon to implement the method comprising the steps of:" and then steps such as "presenting chart data..."

17. Claims 75-82 and 89-93 are allowable over the prior art of record. These claims being out the direct and remote modification and integration of the annotation data with the java applets, which combined with the other features are not set forth in the prior art of record. Furthermore, there are no double patenting concerns with U.S. Patent 6489954 (Powlette) as the present claims distinguish over the claims of that patent. The '954 patent is also excluded as prior art due to the filing date of the present invention.

18. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.


19. Since the 101 rejection could have been presented earlier and is not the result of the amendment 8/9/04, this Action is non-final.

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven P Sax whose telephone number is 571-272-4072. The examiner can normally be reached on M-F 8:30AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid can be reached on 571-272-4063. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2174

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 , Art. 2174
Steven Sax
Primary Examiner